Pamph
HMod
L

[Communicated to the Council and the Members of the League.]

C. 678. M. 296. 1923. VII.

LEAGUE OF NATIONS

Geneva,
December 1st, 1923.

FEB 1 1924
UNIVERSITY OF TORONTO

MEMEL TERRITORY

3 1761 09344199 6

Note by the Secretary-General :

The following letter from the Secretary-General of the Conference of Ambassadors, dated October 18th, 1923, and the accompanying documents, which are a supplement to Document C. 664. M. 295. 1923. VII, are forwarded to the Council and the Members of the League.

LETTER FROM THE CONFERENCE OF AMBASSADORS TO THE SECRETARY-GENERAL *(October 18th, 1923)*.

[*Translation.*]

Sir,

I have the honour to forward to you a copy of a letter from M. GALVANAUSKAS (Annex A) dated September 21st, 1923, together with its three Appendices, which constitute the complete text of the Lithuanian Government's reply to the letter of August 8th, 1923, from the Conference of Ambassadors regarding the status of the Memel Territory (Document C. 664, pages 4-6).

The Conference would be grateful to you if you would also call the attention of the Members of the Council of the League of Nations to the following documents, which prove that the Conference has protested continuously against the various infringements by the Lithuanian Government of the sovereign rights of the Principal Allied Powers over the Memel Territory:

ANNEX B. Letter from the President of the Conference of Ambassadors dated March 28th, 1923.
ANNEX C. Telegram from the Conference of Ambassadors dated May 9th, 1923.
ANNEX D. Note, dated June 28th, 1923, addressed to the International Bureau of the Universal Postal Union.
ANNEX E. Telegram from the Conference of Ambassadors dated June 30th, 1923.
ANNEX F. Telegram from the Conference of Ambassadors dated August 18th, 1923.

R. MASSIGLI.

ANNEX A.

LETTER FROM M. GALVANAUSKAS TO THE PRESIDENT OF THE CONFERENCE OF AMBASSADORS *(September 21st, 1923)*.

[*Translation.*]

Your Excellency,

I have had the honour of receiving the Note which you were good enough to send me on August 9th, 1923, on behalf of the British, French, Italian and Japanese Governments, together with the Draft Convention and Protocol approved by the Conference of Ambassadors, the signature of which the said Powers consider essential as a condition for the transfer to Lithuania of the rights of sovereignty over Memel Territory held by them under Article 99 of the Treaty of Peace of Versailles.

You were good enough to inform me in this Note that the Allied Governments consider that the principles laid down by the Decision of the Conference of Ambassadors dated February 16th, 1923, have been liberally and generously applied in the Convention and Protocol submitted for the Lithuanian Government's approval, and that they request the Lithuanian Government to inform them whether it is prepared to sign without amendment or reservation the acts in question.

S. d. N. 530 (F.) + 600 (A.) 12/23. Imp. Kundig.

The Lithuanian Government has made a detailed and searching examination of the Conference's recent proposals, and it is regretfully forced to declare that it cannot share the view held by the Allied Governments as to the drafts in question. On the contrary, it considers that, in certain respects, the Acts concerned differ considerably from the Decision of February 16th, 1923.

I have the honour to submit to the Conference of Ambassadors a memorandum in support of this declaration. The conditions set forth in the Decision of February 16th being the only conditions which the Allied Powers laid down in respect of the transfer to Lithuania of sovereignty over Memel, it follows that the Lithuanian Government is in no way obliged to accept "without amendment or reservation" stipulations which, in its opinion, exceed the undertakings into which it has entered. It has accordingly the honour to forward, annexed to the memorandum, a draft, which specifies the utmost concessions which it deems compatible with the Decision of February 16th.

The Lithuanian Government ventures to hope that the explanations contained in its memorandum will succeed in convincing the Allied Governments that the Lithuanian draft is in conformity with the Decision of February 16th. Should the contrary be the case, the only possible remaining course, in its opinion, will be to place on record the fact that a dispute of a legal nature, regarding the interpretation to be given to the Decision in question, exists between the four Governments on the one part and the Lithuanian Government on the other.

The Note of August 9th concludes with a declaration that "the Allied Governments are convinced that the Lithuanian Government will not compel them to bring the situation created at Memel to the attention of the Council of the League of Nations in accordance with Article 11 of the Covenant". The Lithuanian Government ventures to express the opinion that the placing on record of a dispute as to the interpretation of the Decision of February 16th would make the application of Article 12 of the Covenant of the League of Nations incumbent upon the parties concerned. Accordingly, if it should prove that there is no prospect of a direct understanding, the Lithuanian Government has the honour to propose to the Allied Governments that recourse should be had to the Permanent Court of International Justice, whose jurisdiction it would for its part accept, in conformity with paragraph 2 of Article 36 of the Statute of the Court.

GALVANAUSKAS

President of the Council,
Minister of Foreign Affairs.

Appendix 1.

MEMORANDUM.

The Conference of Ambassadors' Decision of February 16th, 1923, the principles of which were accepted by Lithuania without reservation, stipulates in Point 6 that "the Conference of Ambassadors, with the assistance of representatives of Lithuania and the Territory concerned, will draw up at Paris an Organic Statute for the Memel Territory and conclude a Convention with Lithuania in conformity with the present decision". The Lithuanian Government proposes to prove in the present Memorandum that the Draft Convention which it is submitting herewith for the Conference's approval is in conformity with all the points contained in the Decision of February 16th.

POINT 1 OF THE CONFERENCE OF AMBASSADORS' DECISION OF FEBRUARY 16TH, 1923.

"The Allied Powers renounce in favour of Lithuania all rights and title over the territory defined in Article 99 of the Treaty of Versailles of June 28th, 1919."

POINT 2 OF THE DECISION OF FEBRUARY 16TH, 1923.

"The establishment in the Memel Territory of an autonomous government and popular representation, together with institutions officially recognising the two languages in common use and respecting the principle of the equality of all the inhabitants of whatever race, language or religion, and of equality of treatment as between nationals and foreigners in the exercise of civil rights and in commerce."

The Lithuanian Government is glad to be able to state that it is in entire agreement with the Conference of Ambassadors as to the autonomous status of the Memel Territory as defined in Articles 1 to 35 of the Conference's Draft, with the exception of two points only. The first point refers to Paragraph 9 of Article 3, in regard to which the Lithuanian Government feels it must ask that the words "previously consult" be substituted for the words "previously come to an agreement with". Being convinced of the necessity of ensuring the State's supremacy in questions regarding stock-exchange regulations, credit establishments and insurance, the Lithuanian Government cannot accept any obligation in regard to these matters other than that of consulting the Directorate of Memel.

The second point relates to Paragraph 2, Article 21, in the Conference's Draft. Paramount considerations of public order force the Lithuanian Government to insist on its request that the Port of Memel police, as also the frontier, Customs and railway police, should be under the direct authority of the Lithuanian Republic.

In regard to the acquisition of immovable property by foreigners (Article 36) the Lithuanian Government ventures once again to draw the attention of the Conference of Ambassadors to the great importance of this question for Lithuania and the Memel Territory. The geographical

situation of the Memel Territory on the borders of Lithuania, together with the impoverishment of the inhabitants of Memel owing to the disastrous collapse of the German mark, requires the greatest vigilance on the part of the Lithuanian Government. Nevertheless, in order to give further proof of its conciliatory intentions and of its respect for the Conference, the Lithuanian Government declares itself prepared to accept Article 36 of the Draft Convention on condition that the words "bearing the character of illicit speculation" are deleted. The attempt to prove the illicit character of each particular transaction would be continually liable to provoke controversies, and this the Lithuanian Government desires to avoid.

Point 3 of the Conference of Ambassadors' Decision of February 16th, 1923.

"Organisation of freedom of sea, river and land transit, due regard being paid to the interests of the Lithuanian and Polish districts for which Memel is the natural outlet, the Port of Memel to be placed under an economic administration which will contribute to its development and which will provide every guarantee, in particular of a free zone and of the appointment of duly qualified representatives, that the Lithuanian and Polish districts concerned will be given at that port the necessary commercial facilities."

A.

Organisation of Freedom of Transit.

The Lithuanian Government is of opinion that its Draft of July 28th is in all respects consistent with the first part of Point 3 in the Decision of February 16th relating to the organisation of the freedom of transit. Except in a few small details, Articles 33 and 33 *a* of the Draft are in conformity with Articles 38 and 39 of the Conference's Draft. In order to give further proof of its conciliatory intentions, the Lithuanian Government will accept the Conference's text in the following wording:

Article 38. — "The Lithuanian Government shall ensure the freedom of transit by sea, by water and by rail, to traffic coming from or destined for the Memel Territory or in transit through the said Territory, and shall conform in this respect with the rules laid down by the Statute and Convention on the Freedom of Transit adopted by the Barcelona Conference on April 14th, and 20th, 1921, respectively, and, in particular, the provisions of Article 13 of the said Statute, enacting the summary proceeding to be followed in the event of interruption of transit.

"The same freedom of transit shall also be ensured in respect of postal consignments and postal and telegraphic communications."

Article 39. — "The Lithuanian Government shall conform in respect of the whole of the Lithuanian Territory, including the Memel Territory, to the provisions of Articles 331 to 345 of the Treaty of Peace of Versailles concerning the Niemen."

The Lithuanian Government, however, thinks right to mention that, in its opinion, the two Articles quoted above relate only to times of peace. For instance, Article 8 of the Statute on the Freedom of Transit, referred to in Article 38 of the Draft, reads: "This Statute does not prescribe the rights and duties of belligerents and neutrals in time of war. The Statute shall, however, continue in force in time of war so far as such rights and duties permit".

Further, as the Lithuanian Government has already shown in its Note of November 18th, 1922, to the President of the Conference of Ambassadors, the Treaty of Versailles contains no special provision to the effect that the rules enounced therein as to the future régime on international rivers should be applicable except in time of peace.

In consequence, and on account of the state of its relations with Poland, the Lithuanian Government is unable to assent to the stipulations proposed by the Conference to be inserted in a special Protocol providing for the obligation to restore without delay the freedom of communications by waterways navigable for vessels or rafts and by railways as well as the freedom of postal and telegraphic communications between Memel and the Polish districts or districts under Polish administration in the Niemen Basin.

The acceptance of stipulations of this nature, which have clearly a political character, would be tantamount to an implicit recognition by Lithuania of the situation created at Vilna by the violation of the Suwalki Convention, a situation which the Conference of Ambassadors found it possible to recognise in its decision of March 15th, 1923, but against which the Lithuanian Government has not ceased to raise energetic protests, the last of these being contained in the Note addressed to the Conference on April 16th of the same year. The Lithuanian Government could not, accordingly, adhere to a Protocol which would appear to be intended to make the signature of the Convention relating to the transfer of the rights of sovereignty over the Memel Territory conditional upon Lithuania's renouncing the policy which she believes herself entitled to follow as regards Poland, a renunciation which could not have been mentioned in the Decision of February 16th.

The Draft Protocol refers to the "provisions of Chapter III of Part XII of the Treaty of Versailles, the acceptance of which by the Lithuanian Government was a condition of the recognition of the Lithuanian Republic by the Principal Allied Powers on December 20th, 1922". The Lithuanian Government would refer to its Note of November 18th, 1922, which reads: "The Lithuanian Government can only reiterate the statement contained in its Note of August 4th, 1922, in which it undertook to accept purely and simply and to observe the provisions of the Treaty of Versailles in so far as they concern the régime of navigation on the Niemen. This statement is made without any reservation whatsoever. In subordinating the application of its undertaking to times of peace, the Lithuanian Government is only giving it a supplementary definition which is entirely consistent

with the intentions of the Treaty of Versailles..... Further, the Lithuanian Government believes that the present state of the relations subsisting between Lithuania and Poland cannot be regarded by the Conference of Ambassadors as a state of peace such as would permit of the application of all the conventions collectively on the régime of international rivers..... In consequence the Lithuanian Government can only declare once again that the régime of navigation on the Niemen, which was established by the Treaty of Versailles, and which it accepts without reservation, will be put into application as soon as Poland — who in spite of her solemn undertakings to Lithuania, is at present withholding Lithuanian territories from her — has respected her undertakings towards Lithuania, and so made it possible for the Lithuanian Government to enter into peaceful and friendly relations with that country".

In their reply of December 20th, 1922, the British, French, Italian and Japanese Governments took note of the Lithuanian Government's undertaking to accept and observe without any reservation whatsoever the provisions contained in the Treaty of Versailles relating to the régime of navigation on the Niemen, and recognised the Lithuanian Republic *de jure*. At the same time the Governments stated that "they did not, however, propose to make a pronouncement on the various observations" in the Note of November 18th, 1922, and "in particular, on the following points: Does a state of war exist or no between Lithuania and Poland? ; would such a state of war justify the postponement of the measures to be taken to ensure effectively the internationalisation of the Niemen? ; what value should be attached ot the charges made by the Lithuanian Government against the Polish Government in regard to the dispute at present dividing them ?"

Accordingly the Principal Allied Powers, when recognising the Lithuanian Government *de jure*, made no pronouncement as to whether the state of the relations between Lithuania and Poland would justify the postponement of the measures to be taken to ensure effectively the internationalisation of the Niemen. The Lithuanian Government adheres to the point of view expressed in its Note of November 18th, 1922. The question of the restoration of the freedom of communications between Memel and the Polish districts, or districts under Polish administration in the basin of the Niemen can, accordingly, in the Lithuanian Government's opinion, only be settled in conformity with Article 13 of the Barcelona Statute on the Freedom of Transit. Any Government concerned in the solution of this question would be entitled to have recourse to the procedure provided for in that Article, which is mentioned ni Article 38 of the Draft Convention accepted by Lithuania.

Nevertheless, taking into consideration the importance for the Memel Territory that it should receive the timber from the whole basin of the Niemen, the Lithuanian Government is prepared, as its Delegation has already stated, in its letter of July 23rd to M. Laroche, the President of the Commission for the Affairs of Memel, to restore the freedom of the floating of timber on the Niemen as soon as the Convention has been ratified by Lithuania.

B.

The Economic Administration of the Port of Memel.

The Lithuanian Government accepts paragraph 1 of Article 40 of the Convention, declaring that the Port of Memel shall be considered as a port of international concern, and that the recommendations adopted by the Barcelona Conference shall be applied thereto. The Lithuanian Government, however, cannot assent to paragraph 2 of the same article regarding explosives, as the decision of February 16th does not, in its opinion, contain a sufficient basis for the provision contained in the latter paragraph. Further, the Lithuanian Government cannot enter into a discussion on the German regulations mentioned, as they have not been communicated to it.

As regards the administration of the Port of Memel, the Lithuanian Government ventures to advance the opinion that the proposals of the Conference of Ambassadors relating thereto imply certain limitations to the Lithuanian State's sovereignty which are not stipulated in the Conference's Decision of February 16th.

The Decision contained the following passage: "Considering that the Memel region is the natural economic outlet of the neighbouring Lithuanian and Polish districts, and that for the benefit of those districts it is essential that freedom of sea, river and land transit should be established in accordance with the principles embodied in Article 23 of the Covenant of the League of Nations, and in the stipulations of Chapter III of Part XII (Ports, Waterways and Railways) of the Treaty of Versailles relating to the Niemen."

Paragraph (*e*) of Article 23 of the Covenant lays down that the Members of the League "will make provision to secure and maintain freedom of communications and of transit and equitable treatment for the commerce of all Members of the League". In order to attain the objects of that article, the 1921 Barcelona Conference voted, amongst other recommendations, the "Recommendations relative to ports placed under an international régime", Article 5 of which specifies that "subject to any special provisions to the contrary, the State which exercises sovereignty or authority over the port shall be responsible for its administration".

As regards the Port of Memel, which Article 40 of the Conference's draft, accepted by Lithuania, declares a port of international concern, these "special provisions" are inserted in the second part of Point 3 of the Conference of Ambassadors' Decision of February 16th, 1923: "The Port of Memel to be placed under an economic administration which will contribute to its development and which will provide every guarantee, in particular by the establishment of a free zone and by the appointment of duly qualified representatives, that the Lithuanian and Polish districts concerned will be given at that port the necessary commercial facilities."

Sovereignty over the Memel Territory and, in consequence, over the Port is transferred to the Lithuanian State by the Decision of February 16th, subject to certain conditions. Lithuania accordingly, and not the authorities of the autonomous Territory of Memel, should, on the basis

of Article 5 of the above "Recommendations", be made responsible for the administration of the Port. The only restrictions to the free exercise of such sovereignty are those mentioned in the second part of paragraph 3 of the Decision of February 16th, viz. (1) an economic administration of the Port, which will contribute to its development; (2) the establishment of a free zone. The Lithuanian Government is under no obligation to accept any other restriction of whatever nature to its sovereignty over the Port.

Article 41 of the Conference's draft proposes that the administration and working of the Port shall be provided for by a Board under the direct control of the Memel authorities, and that the upkeep and development of the Port shall be provided for by the Territory with the financial assistance and guarantee of the Lithuanian Government. To dispossess in this way the Lithuanian Government of its sovereign rights over the Port of Memel would render to a great extent valueless the transfer of sovereignty over the Territory as stipulated in the same draft Convention. Moreover, this proposal would be unworkable in practice, since the authorities of the Territory, as they have themselves admitted to the Conference on several occasions, do not possess the necessary funds or power to administer the Port. The Lithuanian Government, further, could not assent to the Conference's suggestion that it should give financial assistance to and guarantee an undertaking over which it would have no effective control.

The limitations to the free exercise of sovereignty over the Port of Memel agreed to by the Lithuanian Government should be construed in a restrictive sense. There would, however, be no difficulty in showing that in all these matters the Conference of Ambassadors has adopted so wide an interpretation of the Decision of February 16th that the Lithuanian Government is quite unable to accept it.

In Article 35 of its draft of July 23rd the Lithuanian Government proposes that there should be attached to the Harbour Board an Advisory Economic Committee, whose opinion the Board would compulsorily have to ask for on all questions relating to the administration, working, upkeep and development of the Port of Memel and the free port, and also of all navigable waterways belonging to the Territory. It proposes to include in the Committee representatives of the Chamber of Commerce, of the city and of the port workers, together with a representative of the economic organisations of the other parts of Lithuania, and of those in the territories situated in the basin of the Niemen and at present subject to Polish administration. The Lithuanian Government considers that these provisions amply satisfy the third condition in the Decision of February 16th relating to the establishment of an economic administration of the Port of Memel, which will contribute to its development, and must include the appointment of duly qualified representatives.

The Conference of Ambassadors also considers the enforcement of the third condition in the Decision of February 16th as practicable by means of the establishment of a mixed economic organisation attached to the Harbour Board. Article 42 lays down that "with a view to ensuring the execution of the present Convention as regards the protection of the economic interests of Lithuania, Poland and other States utilising the Port of Memel, there shall be attached to the Harbour Board an Economic Supervisory Committee". However, the composition and powers which the Conference's draft proposes to give this Committee, manifestly exceed the terms of the Decision of February 16th and are accordingly unacceptable to Lithuania.

The Lithuanian Government is obliged in the first place to raise the question of the title of the Committee which it is proposed to call an Economic *Supervisory* Committee. It proposes to substitute for this nomenclature the title *Advisory Economic Committee*, which is, in its opinion, more consistent with the future relations of that body, which comprises a majority of Lithuanian subjects with the authorities of the sovereign State of Lithuania.

With regard to the composition of the Advisory Economic Committee, the Lithuanian Government must insist on a stronger representation of the interests of the Memel population, and adheres to the wording of its proposals of July 23rd in this respect. It also proposes that the Chairman of the Economic Committee should be freely elected by all the members. Making allowance, as far as possible, for the new wording of Article 42 as proposed by the Conference, the Government suggests the following text:

Article 42. — "There shall be attached to the Harbour Board an Advisory Economic Committee consisting of five members representing the economic interests of the districts forming part of the basin of the Niemen, namely:

1) One representative of the Memel Chamber of Commerce,
2) One representative of the City of Memel,
3) One representative of the Port of Memel workers,
4) One representative of the economic organisations in the other parts of Lithuania,
5) One representative of Polish economic organisations.

"The powers of each of the foregoing five representatives shall the legalised, those of the first three by the Memel Directorate, those of the fourth by the Lithuanian Government, and those of the fifth by the Polish Government.

"The members of the Committee may be represented by substitutes in case of absence."

In regard to the Committee's powers contemplated in Article 43 of the Convention's draft, the Lithuanian Government would submit the following remarks:

The Lithuanian Government accepts paragraph 1 of Article 43 in so far as it lays down that the Economic Council must be compulsorily consulted on the questions mentioned in this paragraph, with the exception, however, of railways, which are not, in the Government's opinion affected by the Decision of February 16th.

On the other hand, the Lithuanian Government regrets that it is unable to accept paragraphs 2 and 3 in the same Article, for the following reasons:

Paragraph 2 reads: "The Committee may address its recommendations or observations to

the Lithuanian Government or to the autonomous administration of the Memel Territory. If they are disregarded, the Committee may refer the matter to the Powers signatory to the present Convention, who shall lay it before the Council of the League of Nations."

If this wording should be interpreted as meaning that the Committee has the right to address to the Lithuanian Government or the Directorate of the Memel Territory recommendations or observations on questions irrelevant to the execution of the clauses of the Convention, it would be unacceptable to the Lithuanian Government, since it would place a further restriction upon the latter's sovereignty, and one not provided for in the Decision of February 16th.

If, on the other hand, paragraph 2 refers exclusively to the articles in the Convention, it is pointless, as it only duplicates the terms of Article 62 of the Convention. The first paragraph of Article 62 reads: "The High Contracting Parties declare that any Member of the Council of the League of Nations shall be entitled to draw the attention of the Council to any infraction of the provisions of the present Convention." It should be pointed out that the signatory Powers are all members of the Council. Paragraph 2 of Article 43, therefore, only confers upon them the right to notify the Council, and this right they already hold under Article 62. It is true, that the paragraph 2 referred to above stipulates explicitly the Committee's right to refer to the signatory Powers cases in which its recommendations or observations are disregarded. This right, however, does not require the sanction of special provisions. The Lithuanian Government may be permitted to point out that the so-called Minorities Treaties, which also reserve the right of the Members of the Council to refer cases directly to the Council of the League of Nations, do not contain express provisions specifying the right of minorities to bring their complaints before those Members, and that nevertheless the latter are informed of all complaints brought by minorities before the League. Similarly, even failing an express provision, the Economic Committee, which is in an analogous situation, could always notify the signatory Powers of any refusal to take into consideration its observations or recommendations, and the latter would inform the Council in conformity with Article 62.

The same observations should be made concerning paragraph 3 of Article 43 of the Draft Convention, which reads: "Moreover, in questions concerning the competence of the Economic Supervisory Committee any member of the Committee who, in disagreement with the majority, considers that the stipulations of the present Convention have been infringed, may appeal directly to any of the Powers signatory to this Convention with a view to having the dispute laid before the Council of the League of Nations." It is obvious that the dissenting member of the Committee would be able to notify any infringement of the stipulations of the Convention to any of the signatory Powers, even if this right were not specifically laid down.

Article 44 of the Draft Convention provides that the Economic Committee shall draw up its own regulations, but that, if unanimous agreement is not reached in respect of the whole or part of these regulations within one month from the date on which the Committee enters on its duties, the Principal Allied Powers will appoint an arbitrator to settle the dispute. The Lithuanian Government is not in a position to assent to a provision which would allow a foreign arbitrator to dictate regulations unacceptable to the majority of the Committee which might, moreover, be incompatible with the rights conferred upon Lithuania by the Convention. It proposes, accordingly, that the regulations should be adopted by a majority of the Committee.

As regards Article 45, the Lithuanian Government still believes that the status of representative of a Polish economic organisation is insufficient ground for granting the Polish member dilpomatic immunities, and proposes that he should be granted personal immunities, except in cases of crime.

The Lithuanian Government feels bound to bear the expenses of the Committee out of its own exchequer. As regards the remuneration of members, it would seem fair that this should be undertaken by the economic organisations which they respectively represent.

Paragraph 3 of the Decision of February 16th provides for the establishment of a *free zone* in the Port of Memel and accordingly the Lithuanian Draft of July 23rd includes an Article 36 in the following terms: "The free zone already existing in the Port of Memel shall be maintained, and the commerce and traffic in transit of all foreign States shall have the same facilities as home commerce". Article 46 in the Conference's draft is worded in identical terms, but is followed by Article 47, in which the autonomous administration of Memel undertakes to lease for 99 years to the Polish Government the areas necessary for Polish shipping and commerce, including the grant of lumber rights. In the Lithuanian Government's opinion, there is no basis at all for this proposal in the Decision of February 16th. Moreover, in view of the maintenance of the free zone, the proposal seems altogether superfluous. Consequently, the Lithuanian Government cannot assent to Article 47 of the Conference's draft.

Article 48 in the Conference's draft contains provisions referring to lumber rights for timber in transit. The Lithuanian Government considers that these provisions have no foundation in the Decisions of February 16th on the organisation of the freedom of transit and the establishment of an economic administration of the port. Questions such as those of the exemption from Customs duties of timber imported into the Memel Territory to be prepared for re-exportation, or of the areas in which such timber may be prepared, lie within the range of a State's economic and Customs policy and should be altogether reserved for national legislation.

Point 4 of the Decision of February 16th.

"The Memel Territory to refund, under the guarantee of Lithuania, the expenditure incurred on account of its administration and occupation not yet recovered."

The Lithuanian Government accepts the principle laid down in Article 51 of the Conference's draft. Nevertheless it expressly reserves the question of the amount of the above expenses,

as these have not yet been notified to it, and also that of the period within which repayment must be effected. Further, the Government believes itself entitled to expect that the sums which it will be required to pay on this account should be fixed by a special Committee assisted by representatives of Lithuania, the Committee to take into consideration Lithuania's capacity to pay.

The Lithuanian Government would also state that it is unable to comply with the provisions contained in Article 53 of the draft Convention, assigning Lithuania's Customs receipts as a first security for the repayment of the expenses referred to in Article 51, and, furthermore, for the execution of the obligations assumed by Lithuania under Article 50. No security of this nature having been stipulated in Point 4 of the Decision of February 16th, the Lithuanian Government does not consider that it is obliged to accept this condition.

Point 5 of the Decision of February 16th.

"All goods and properties situated in the Territory and formerly belonging to the German Empire or to the other German States, to be transferred to Lithuania or to the Territory, provided that Lithuania takes over for herself and for the Territory the charges laid down in Articles 254 and 256 of the Treaty of Versailles."

The Lithuanian Government is prepared to accept, in conformity with Article 50 of the Conference's draft, the obligations devolving upon the Powers to which German territory has been ceded in accordance with Articles 254 and 256 of the Treaty of Versailles. Nevertheless, it makes such acceptance, conditional upon Lithuania enjoying, as regards the assessment of the value of the properties and the methods and periods for payment, the same facilities and privileges as those granted to any other Power to which German territory has been ceded, with the exception, however, of France and Belgium.

Point 6 of the Decision of February 16th.

"As soon as Lithuania accepts sovereignty over the Memel Territory upon the foregoing conditions the Conference of Ambassadors, with the assistance of representatives of Lithuania and of the Territory concerned, will draw up at Paris an Organic Statute for the Memel Territory and conclude a Convention with Lithuania in conformity with the present Decision."

The Lithuanian Government can but state that it confirms its acceptance of sovereignty over the Memel Territory under the conditions laid down in the Decision of February 16th, 1923, and that it believes that it has, in this Memorandum, proved that the attached draft Convention is in all respects consistent with that Decision.

Appendix 2.

DRAFT CONVENTION.

Conference of Ambassadors' Text.	*Lithuanian Government's Text.*
Preamble.	*Accepted.*
Article 1.	*Accepted.*
Article 2.	*Accepted.*
Article 3. — Subject to the provisions of Article 7 below, the following matters shall come within the competence of the local authorities of the Memel Territory:	
(1) Organisation and Administration of Communes and Districts. (2) Public Workship. (3) Public Education. (4) Public Refief and Health, includinget Verinary Regulations. (5) Social Welfare and Labour Legislation. (6) Local Railways, except those belonging to the Lithuanian Government; Roads, local Public Works. (7) Regulations in respect of Foreigners. (8) Police, subject to provisions of Article 21.	*Accepted.*
(9) Civil Legislation (including proprietary rights), and Criminal, Agrarian, Forestry and Commercial Legislation; Stock Exchange Regulations, Credit Establishments and Insurance shall, however, come within the competence of the Lithuanian Government which shall previously come to an agreement on these matters with the Directorate of Memel.	*Amendment:* (9) Civil legislation (including proprietary rights) and criminal, agrarian, forestry and commercial legislation; stock exchange regulations, credit establishment and insurance, shall, however, come within the competence of the Lithuanian Government which shall previously consult the Directorate of Memel on these matters.

(10) The acquisition of rights of citizenship, subject to the provisions of Article 28.
(11) Organisation of the judicial system, subject to the provisions of Articles 23 and 24.
(12) Direct and indirect taxes levied in the Territory, with the exception of Customs Duties, Excise Duties and Commodity Taxes.
(13) Administration of Public Property belonging to the Memel Territory.
(14) Regulation of timber-floating and navigation on the canals and on the waters of the Chicha, Jura, Minia and Wirwicha.
(15) Registration of the trading vessels of the Memel Territory.

The laws of Lithuania may extend the competence of the authorities of the Memel Territory to other matters.

Accepted.

Articles 4 *to* 20.

Accepted.

Article 21. — The maintenance of public order shall be assured by a local police force responsible to the authorities of the Memel Territory; in case of need, the latter may apply to the Lithuanian Government for assistance.

Accepted.

The frontier police and the customs and railway police shall be under the direct authority of the Lithuanian Republic.

Amendment:

The frontier police and the customs, railway and *port* police shall be under the direct authority of the Lithuanian Republic.

Articles 22 *to* 35.

Accepted.

Article 36. — Lithuanian nationals who are not citizens of the Memel Territory and the nationals of foreign Powers, shall receive the same treatment in the said Territory as its own citizens in all that concerns civil rights, trade, including maritime trade, and industry, Lithuania retaining the right to reserve the coasting trade and fisheries in home waters for her own flag.

Article 36. — The nationals of foreign Powers shall receive the same treatment in the Memel Territory as the citizens of the said Territory in all that concerns civil rights, trade, including maritime trade and industry, Lithuania retaining the right to reserve the coasting trade and fisheries in home waters for her own flag.

Nevertheless, within three years from the date of the coming into force of the present Convention, the authorities of the Memel Territory shall have the option of forbidding the acquisition of immovable property bearing the character of illicit speculation. This prohibition must be decreed within a time limit of 20 days.

Nevertheless, within three years from the date of the coming into force of the present Convention, the authorities of the Memel Territory shall have the option of forbidding the acquisition of immovable property. This prohibition must be decreed within a time limit of 20 days.

Articles 37 *to* 39.

Accepted.

Article 40. — The Port of Memel shall be considered as a port of international concern. The recommendations adopted by the Barcelona Conference concerning ports subject to an international régime shall be applied thereto.

The regulations applying to the handling and transport of explosives shall be those of the German legislation in force on July 28th, 1914. No amendments may be made to these regulations except with the previous consent of the Harbour Board.

Article 40. — The Port of Memel shall be considered as a port of international concern. The recommendations adopted by the Barcelona Conference concerning ports subject to an international régime shall be applied thereto.

Article 41. — The upkeep and the development of the Port of Memel, the free zone and the public waterways, shall be provided for by the Memel Territory with the financial assistance and guarantee of the Lithuanian Government. An agreement shall be concluded between the Lithuanian Government and the local authorities of the Memel Territory in regard to the allocation of their respective shares of the expenditure incurred.

Article 41. — The upkeep and development of the Port of Memel, the free zone and the public waterways shall be provided for by the Government of the Lithuanian Republic.

The administration and working of the Port shall be provided for by a Harbour Board under the direct control of the authorities of the Memel Territory.

Article 42. — With a view to ensuring the execution of the present Convention as regards the protection of the economic interests of Lithuania, Poland and other States utilising the Port of Memel, there shall be attached to the Harbour Board an Economic Supervisory Committee consisting of three members representing the economic interests of the Lithuanian and Polish districts forming part of the Basin of the Niemen, namely:

(1) One member appointed by the Directorate of Memel in agreement with the Memel Chamber of Commerce, who will act as Chairman of the Supervisory Committee.

(2) One Lithuanian member, who must not be a citizen of Memel;

(3) One Polish member;

The appointment of the two latter members shall be notified by the Lithuanian and Polish Governments respectively to the Chairman of the Supervisory Committee.

The members of the Committee may appoint substitutes when prevented from attending.

Article 43. — The Committee provided for in Article 42 shall supervise the management of the Port of Memel and shall be called upon to give its opinion on all questions relating to the administration, working, upkeep, development and utilisation of the Port of Memel, of the free zone and of the railways and navigable waterways, in order to ensure the execution of the relevant clauses of the present Convention.

The Committee may address its recommendations or observations to the Lithuanian Government or to the autonomous administration of the Memel Territory. If they are disregarded, the Committee may refer the matter to the Powers signatory to the present Convention who shall lay it before the Council of the League of Nations.

Moreover, in questions concerning the competence of the Economic Supervisory Committee, any member of the Committee who, in disagreement with the majority, considers that the stipulations of the present Convention have been infringed, may appeal directly to any of the Powers signatory to this Convention with a view to having the dispute laid before the Council of the League of Nations.

Article 44. — The Economic Supervisory Committee shall enter upon its duties within two months from the date of the coming into force of the present Convention. It shall draw up its own regulations. If a unanimous agreement is not reached in respect of the whole or part of these regulations within one month from the date on which the Committee assumes

The administration and the working of the Port shall be provided for by a Harbour Board under the direct control of the Lithuanian Government.

Article 42. — There shall be attached to the Harbour Board an Advisory Economic Committee consisting of five members representing the economic interests of the districts forming part of the Basin of the Niemen, namely:

(1) One representative of the Memel Chamber of Commerce;

(2) One representative of the City of Memel;

(3) One representative of the Port of Memel workers;

(4) One representative of the economic organisations in the other parts of Lithuania;

(5) One representative of Polish economic organisations.

The powers of each of the foregoing five representatives shall be legalized; those of the first three by the Memel Territory, those of the fourth by the Lithuanian Government and those of the fifth by the Polish Government.

The members of the Advisory and Economic Committee may be represented by a substitute in case of absence.

Article 43. — The Advisory Committee shall be compulsorily consulted on all questions relating to the administration, working, upkeep, development and utilisation of the Port of Memel, including the free zone and the navigable waterways belonging to the Memel Territory, in order to ensure the execution of the relevant clauses of the present Convention.

Article 44. — The Advisory Economic Committee shall enter upon its duties within two months from the date of the coming into force of the present Convention.

It shall draw up its own regulations by a majority vote.

its duties, the principal Allied Powers signatories of the present Convention shall appoint an arbitrator to settle the dispute.

Article 45. — No member of the Economic Supervisory Committee may be interfered with or molested on account of his actions in the discharge of his duties. The Polish member shall personally enjoy diplomatic immunities. The archives of the members of the Committee shall be inviolable.

These provisions shall also apply to substitute members.

The administrative expenses of the Committee, other than the remuneration of the Lithuanian and Polish members, shall be borne by the autonomous administration of Memel. The autonomous administration shall place suitable premises at the disposal of the Committee and shall in general grant it all the facilities necessary for its work.

Article 46.

Articles 47 *and* 48.

Article 49.

Article 50.— Lithuania agrees to assume, both as regards herself and as regards the Memel Territory, the obligations incurred by Powers to which German territory is ceded, under the provisions of Articles 254 and 256 of the Treaty of Versailles of June 28th, 1919, and to ensure the application of the said provisions under the conditions to be determined by the Reparation Commission in conformity with the stipulations of Part VIII of the Treaty of Versailles.

Article 51. — The expenses of occupation, administration, and half the expenses of delimitation of the Territory shall be repaid by the Lithuanian Republic to the Powers who have advanced them, within a period of one year from the date on which it receives notification of the amount of those expenses.

Article 52.

Article 53.

Articles 54 *to* 60.

Article 61. — The constitutional organisation of the Memel Territory resulting from Articles 2 to 48 may not be modified before five years have elapsed from the date on which the present Convention comes into force.

Articles 2 to 29 may only be amended by a law of the Memel Territory adopted by a two-thirds majority of the Chamber of Representatives and approved by the Lithuanian Diet.

Article 45. — No member of the Advisory Committee may be interfered with or molested on account of his actions in the discharge of his duties. The Polish Member shall enjoy personal immunities, except in case of crime. The archives of the members of the Committee shall be inviolable.

These provisions shall also apply to substitute members.

The administrative expenses of the Committee shall be borne by the Lithuanian Government. The remuneration of the members of the Committee shall be incumbent upon the respective organisations which they represent. The Lithuanian Government shall place suitable premises at the disposal of the Committee and shall in general grant it all the facilities necessary for its work.

Accepted.

Delete.

Accepted.

Article 50. — Lithuania agrees to assume, both as regards herself and as regards the Memel Territory, the obligations incurred by Powers to which German territory is ceded, under the provisions of Articles 254 and 256 of the Treaty of Versailles of June 28th, 1919, and to ensure the application of the said provisions under the conditions to be determined by the Reparation Commission in conformity with the stipulations of Part VIII of the Treaty of Versailles.

With regard to the assessment of the value of property and the methods and periods of payment, it is understood that Lithuania shall enjoy the same facilities and privileges as may be granted to any other Power to which German territory is ceded, with the exception, however, of France and Belgium.

Article 51. — The expenses of occupation, administration, and half the expenses of delimitation of the Territory shall be repaid by the Lithuanian Republic to the Powers who have advanced them.

The amount of those expenses and the methods and periods of payment shall be fixed by a special Commission assisted by delegates of Lithuania. This Commission shall take into consideration Lithuania's capacity to pay.

Accepted.

Delete.

Accepted.

Article 61.

Delete.

Articles 2 to 29 of the present Convention may only be amended by a law of the Memel Territory adopted by a two-thirds majority of the Chamber of Representatives and approved by the Lithuanian Diet.

Articles 30 to 48 may only be amended with the consent of the Council of the League of Nations and of the Lithuanian Government.	Articles 30 to 48 of the present Convention may only be amended with the consent of the Council of the League of Nations and of the Lithuanian Government.
Articles 62 to 64.	*Accepted.*

Appendix 3.

PROTOCOL TO BE SIGNED AT THE SAME TIME AS THE CONVENTION.

Conference of Ambassadors Text.

The British Empire, France, Italy and Japan, signatories with the United States of America as the Principal Allied and Associated Powers to the Treaty of Versailles,

Considering that the Powers Signatory to the Treaty of Versailles, in detaching the Memel Territory from Germany, signified their recognition of the port of Memel as the natural outlet of the Lithuanian and Polish districts belonging to the basin of the Niemen;

Considering that it is of urgency that peaceable commerce should be allowed to utilise the said port of Memel to the full and that to this end the freedom of traffic on the waterways and railways serving the port should be restored without delay;

Declaring that they will not proceed to deposit their respective ratifications to the Convention concluded at Paris between Lithuania and themselves on ..... until Lithuania re-establishes freedom of navigation on the Niemen in conformity with the provisions of Chapter III, Part XII, of the Treaty of Versailles, the acceptance of which by the Lithuanian Government was a condition of the recognition of the Lithuanian Republic by the Principal Allied Powers on December 20th, 1922;

Declare, notwithstanding, that, without waiting for this Convention to be put into force, they are willing to raise no objection to the Lithuanian Government's exercising in fact, immediately it has ratified the Convention, the various rights of sovereignty over the Memel Territory as defined in the Convention, on the express condition that it conforms in general with the obligations imposed on it by the Convention and in particular that it first restores the freedom of communications by waterways navigable for vessels or rafts, and by railways, as well as the freedom of postal and telegraphic communications between Memel and the Lithuanian and Polish districts in such manner that free traffic destined for, coming from or in transit through Memel are ensured.

Lithuania, being equally desirous to contribute to the restoration of normal economic conditions and to the prosperity of the Memel Territory, declares its acceptance of the preceding stipulations.

Lithuanian Text.

The British Empire, France, Italy and Japan, signatories with the United States of America as the Principal Allied and Associated Powers to the Treaty of Versailles,

Considering that it is necessary at once to ensure the political stability of the Memel Territory and conditions favourable to its normal economic development;

Without waiting for the coming into force of the Convention concluded at Paris between them and Lithuania on ....., declare that they are willing to raise no objection to the Lithuanian Government's exercising in fact, immediately it has ratified the Convention, the various rights of sovereignty over the Memel Territory as defined in the said Convention on the express condition that it conforms in general with the obligations imposed on it by this Convention and first restores the freedom of timber-floating on the Niemen.

Lithuania, being equally desirous of contributing to the restoration of normal economic conditions and to the prosperity of the Memel Territory, declares her acceptance of the preceding stipulations.

ANNEX B.

LETTER FROM THE PRESIDENT OF THE CONFERENCE OF AMBASSADORS TO M. GALVANAUSKAS *(March 28th, 1923)*.

(Translation.)

Sir,

The Commission appointed to draw up the Statute of Memel has reported to the Conference on the preliminary conversations which it has had with the Lithuanian Delegation and the Delegation from Memel. It has in particular drawn the Conference's attention to the reservations made by the Commission in regard to the legality of certain acts committed by the Lithuanian Government and the Memel provisional Government since the departure of the Allied authorities from Memel.

The Conference entirely agrees with the statements made in the matter by the President of the Commission at the meeting held on March 25th. It desires to point out once again to the Lithuanian Delegation that sovereignty over the Memel Territory has not yet been transferred to Lithuania, and will not be transferred until the Convention at present under examination has been signed and ratified by the Lithuanian Government. Accordingly, all measures taken either in regard to Customs, currency or the management of the railways must be considered as null and void. The Conference protests more especially against the measures taken at Memel to dismiss officials of Memel origin.

Furthermore, the Conference has recently learned that the representatives of the Lithuanian Government propose shortly to sign — if indeed they have not already done so — a contract with the Board of Management of the Königsberg Railways, under which the latter will cede to the Lithuanian State, as from April 1st, all equipment and rolling-stock belonging to the railways in the Territory.

The Conference vigorously protests against any such agreement, which Lithuania is not at the present moment empowered to conclude, and is also compelled to address a formal protest on the subject to the German Government.

R. Poincaré.

ANNEX C.

TELEGRAM DATED MAY 9th, 1923, FROM THE CONFERENCE OF AMBASSADORS TO THE ALLIED REPRESENTATIVES AT KOVNO.

(Translation.)

The Conference has been informed that the Lithuanian Prime Minister went to Memel and there proclaimed that Territory independent. The Principal Allied Powers, which are alone invested with sovereignty over the Memel Territory, consider as null and void a proclamation which prejudices the issue of the negotiations at present in progress as regards the Territory.

The Conference has further taken note of a proclamation addressed to the Lithuanian Army and irregular troops by the Commander-in-Chief of the Lithuanian Army. This document, which gives evidence of the aggressive spirit shown by the highest military authorities in the Lithuanian Army and demonstrates a desire to put an end to the position created by the recent decision of the Powers relating to the Lithuanian and Polish frontiers, has made a most unfortunate impression upon the Conference of Ambassadors. Further, the Conference reserves its right to draw any appropriate conclusions from this incident. Kindly consult your British and Italian colleagues and make with them a joint representation to the Lithuanian Government with a view to communicating the foregoing.

Poincaré.

ANNEX D.

NOTE DATED JUNE 28th, 1923, FROM THE CONFERENCE OF AMBASSADORS TO THE INTERNATIONAL BUREAU OF THE UNIVERSAL POSTAL UNION.

(Translation.)

The attention of the Conference of Ambassadors has been drawn to a circular letter in which the International Bureau of the Universal Postal Union communicates to the administrations adhering to the Universal Postal Union a note addressed to the Swiss Government by the Lithuanian representative at Berne.

In this note the Lithuanian Government states that, sovereignty over the Memel Territory having been transferred to the Lithuanian Republic, the Lithuanian General Posts and Telegraph Administration has assumed the direction of the postal establishments in the Territory and requests the Swiss Government to acquaint the International Bureau of the Universal Postal Union with this fact for the purpose of communicating it to the administrations adhering to the Union.

The British Empire, France, Italy and Japan, who — as joint signatories with the United States of America, in their capacity as the Principal Allied and Associated Powers, of the Treaty of Versailles, have, under the provisions of Article 99 of the aforesaid Treaty, acquired all rights and title previously held by Germany over the territories included between the Baltic, the North-Eastern frontier of East Prussia, and the former frontier between Germany and Russia — protest formally against the action of the Lithuanian representative at Berne and against the statement that sovereignty over the Memel Territory has been transferred to the Lithuanian Republic. Until the negotiations in progress between the Conference and the Lithuanian Government have been concluded, and until the Statute of Memel has been determined and the instrument of transfer signed, the Allied Powers will consider as null and void any measure affecting their rights over the Memel Territory.

ANNEX E.

TELEGRAM DATED JUNE 30th, 1923, FROM THE CONFERENCE OF AMBASSADORS TO THE ALLIED REPRESENTATIVES AT KOVNO.

(Translation.)

In conjunction with your Allied colleagues, kindly hand a note in the following terms, on behalf of the Conference of Ambassadors, to the Lithuanian Government:

"The attention of the Conference of Ambassadors has been drawn to a circular letter in which the International Bureau of the Universal Postal Union communicates to the administrations adhering to the Universal Postal Union a note addressed to the Swiss Government by the Lithuanian representative at Berne.

"In the note in question the Lithuanian Government states that, sovereignty over the Memel Territory having been transferred to the Lithuanian Republic, the Lithuanian General Posts and Telegraph Administration has assumed the direction of the postal establishment in the Territory and requests the Swiss Government to acquaint the International Bureau of the Universal Postal Union with this fact for the purpose of communicating it to the administrations adhering to the Union.

"The British Empire, France, Italy and Japan, in favour of whom Germany has renounced all rights and title over the Memel Territory, protest formally against the action of the Lithuanian representative at Berne and against the statement that sovereignty over Memel Territory has been transferred to the Lithuanian Republic. Until the negotiations in progress between the Conference and the Lithuanian Government have been concluded, and until the Statute of Memel has been determined and the instrument of transfer signed, the Allied Powers will consider as null and void any measure affecting their rights over Memel Territory."

POINCARÉ.

ANNEX F.

TELEGRAM DATED AUGUST 18th, 1923, FROM THE CONFERENCE OF AMBASSADORS TO THE ALLIED REPRESENTATIVES AT KOVNO.

(Translation.)

Kindly request the Lithuanian Government to inform you what is the purport of the decision taken by the Lithuanian Minister of Transport and Communications placing the railways in Memel Territory under the Lithuanian Administration.

You will remind the Lithuanian Government of the terms of the Conference of Ambassadors letter of March 28th, 1923, communicated to you on April 20th, 1923, and will point out that, in conformity with the principle enunciated in that letter, France, Great Britain, Italy and Japan propose formally to reserve all rights and title conferred upon them by the Treaty of Versailles over Memel Territory, so long as they possess sovereignty over the Territory.